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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/513,768 | 02/25/2000 | Randell L. Mills | 62-226-ion | 6782 |
| 20736 | 7590 | 05/07/2003 | EXAMINER | |
| MANELLI DENISON & SELTER 2000 M STREET NW SUITE 700 WASHINGTON, DC 20036-3307 | | | WELLS, NIKITA | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2881 | |

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------|--------------------------------------|--|--|
| Advisory Action | Application No. 09/513,768 | Applicant(s) MILLS, RANDELL L. | |
| | Examiner Nikita Wells | Art Unit 2881 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 January 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-209.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 15.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: the claims are based upon assumptions that are contrary to basic laws of quantum physics and therefore are inoperative and lack utility.

DETAILED ACTION

1. The Applicant provided a "Supplemental Response to Final Office Action" filed January 29, 2003 under 37 CFR 1.116 in reply to the final rejection (see Paper #14).

Applicant's arguments in the "Response to the Office Action" (Paper #10) and "Supplemental Amendment to the Office Action" (Papers #17 and 18) have been fully considered but they are not persuasive. The Examiner analyzed the data and found the compelling experimental evidence to be insufficient as presented. The rejections as stated in the previous Office Action (Paper #14) dated July 29, 2002 are still applicable to the claims.

2. Claims 1-209 stand rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a credible asserted utility or a well established utility. The invention is based upon assumptions that are contrary to basic, well established, laws of quantum physics and, therefore, is inoperative and lacks utility. The major points of contention are as follows:

The Applicant states in the "Response to Final Office Action" (Paper #17, page 34, last paragraph) that "In applying the present Section 101 rejection the Examiner ignores this mandate and improperly presumes the utility of Applicant's invention to be per se incredible, while ignoring the vast majority of theoretical explanation and experimental evidence supporting that utility. For instance, the Examiner has not yet provided any explanation of how the extensive theory disclosed in the present specification is in error and why the supporting experimental evidence does not demonstrate the utility of what Applicant is claiming. Instead,

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the Examiner continues to violate Section 101 standards by merely concluding that "the invention is based upon assumptions that are contrary to basic, well established, laws of quantum physics and, therefore, is inoperative and lacks utility." [Final Office Action at p. 4]". Thus the applicant challenges the Examiner to provide an explanation of errors found in the extensive theory disclosed in the present specification and errors in the supporting experimental evidence. The Examiner's arguments are as follows:

Applicant claims that experimental data confirms that the existence of lower-energy atomic hydrogen (also referred to as "increased binding energy hydrogen" since the lower energy state results in a higher binding energy) is identified by extreme ultraviolet (EUV) spectroscopy conducted in numerous tests, which are disclosed in the Applicant's papers; and that this data demonstrates conclusively that the existence of lower energy hydrogen is not only a theoretical possibility, but is in fact a reality.

However, if one analyzes the status of the 80 technical papers submitted by the Applicant, NONE of Applicant's alleged "compelling" and "overwhelming" evidence of Applicant's lower-energy atomic hydrogen (the fictive "hydrino" atoms) are valid. Most of the papers have not yet been published in scientifically qualified journals with appropriate review process so they are not yet credible. While others appeared as "Attachments" to main papers on pure experimental works, which do not rely on the "hydrino" as a fundamental basis (see Appendix for details).

As to Applicant's anomalous broadening recited in the experimental papers, there are many other physically plausible explanations (see Appendix), e.g., pressure broadening (due to high pressure within a hollow cathode), resonance broadening, microwave-field broadening

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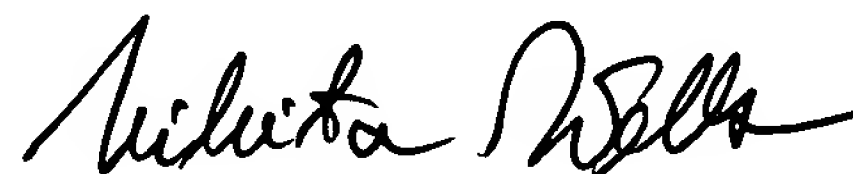
(Blochintsev's satellites), and many other broadening mechanisms which are fundamentally different than Applicant's "resonance broadening" due to hydrino levels. Thus, even if Applicant's hydrino hypothesis would be assumed as physically plausible, an explanation based on a new hypothesis in the presence of a number of other plausible reasons, is highly speculative. Consequently, the experimental data as presented in the technical papers, fails to convince the Examiner as to the possible existence of a lower-energy atomic hydrogen.

However, not only is the hydrino hypothesis highly speculative, but physically wrong, because it is based on many misunderstandings of conventional quantum mechanics, electromagnetic theory and the theory of relativity, as shown in detail in the Appendix.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nikita Wells whose telephone number is (703) 305-0416. The examiner can normally be reached 8:30 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Lee can be reached on (703) 308-4116. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Nikita Wells
Examiner
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Nikita Wells

May 5, 2003

Key analysis and discussion provided in the Appendix -- attached.

Written by Bernard Eng-Kie Souw

References used in the Appendix -- attached.